



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/060,234	02/01/2002	Jean-Louis H. Gueret	05725.1017-00	8084

7590 02/27/2004  
Thomas L. Irving  
FINNEGAN, HENDERSON, PARABOW,  
GARRETT & DUNNER, L.L.P.  
1300 I Street, N.W.  
Washington, DC 20005-3315

EXAMINER

LE, HUYEN D

ART UNIT PAPER NUMBER

3751

DATE MAILED: 02/27/2004

12

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/060,234

Applicant(s)

GUERET, JEAN-LOUIS H.

Examiner

Huyen Le

Art Unit

3751

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 02 December 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) See Continuation Sheet is/are pending in the application.
- 4a) Of the above claim(s) 18-21, 53-59, 68, 69, 92-95, 124-128, 130, 131, 142, 143, 165-168, 195-199, 201, 202, 213 and 214 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) See Continuation Sheet is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 10.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

Continuation of Disposition of Claims: Claims pending in the application are 1-108, 110, 112-116, 118-121, 123-133, 135-182, 184-192, 194-199, 201-204, 206-214.

Continuation of Disposition of Claims: Claims rejected are 1-17, 22-51, 60-67, 70-91, 96-108, 110, 112-116, 118-121, 123, 132, 133, 135-141, 144-164, 169-182, 184-192, 194, 203, 204 and 206-212.

**DETAILED ACTION**

***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-9, 13-17, 36-42, 45, 47-51, 60, -67, 70-83, 87-91, 110, 112-114, 119-121, 123, 132-141, 144-156, 160-164, 182, 184-186, 190-192, 194, 203, 204, 206-212 are rejected under 35 U.S.C. 102(b) as being anticipated by Doyle (3,860,348).

The Doyle reference discloses a first portion 16; a second portion 11 movable with respect to the first portion, wherein the first portion and the second portion define a substantially closed reservoir when the device in a closed position; and an applicator member 18, when the device in a closed position, the application member is at least partially compressed inside the reservoir and, when the device is moved from the closed position to an open position, the application member 18 becomes substantially uncompressed, wherein when the application member 18 is uncompressed, the application member 18 is capable of being loaded with substantially all of an amount of a product that the device is capable of containing.

Regarding claim 2, the application member 18 is attached to the second portion 11.

Regarding claim 3, the application member 18 is attached to the second portion 11 by bonding.

Regarding claims 4-7, the application member 18 is made of porous material such as foam.

Regarding claim 42, a system comprises a plurality of devices (col. 4, lines 16-17).

Regarding claim 60-67, 121-141 and 203, 204, 206-212, a method for applying a product to a surface is inherently performed during the normal use of the device.

3. Claims 1, 4-17, 22-42, 45-51, 60-67, 70-91, 96-108, 110, 112-114, 118-121, 123, 132-133, 135-141 are rejected under 35 U.S.C. 102(b) as being anticipated by Gray (4,594,835).

The Gray reference discloses a first portion 4; a second portion 1 movable with respect to the first portion 4, wherein the first portion 4 and the second portion 1 define a substantially closed reservoir when the device in a closed position; and an applicator member 10, when the device in a closed position, the application member 10 is at least partially compressed inside the reservoir and, when the device is moved from the closed position to an open position, the application member 10 becomes substantially uncompressed, wherein when the application member 10 is uncompressed, the application member 10 is capable of being loaded with substantially all of an amount of a product that the device is capable of containing.

Regarding claims 10-12, the first portion 5 defines a recess.

Regarding claims 22-28, the second portion 1 comprises a film sealed made of a layer of a thermoplastic material (col. 3, lines 8-10).

Regarding claim 29-35, the first and second portions each comprises a sheet.

Regarding claim 60-67, 121-141, a method for applying a product to a surface is inherently performed during the normal use of the device.

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 43, 44, 46, 115, 116, 118, 187, 188 and 189 are rejected under 35 U.S.C. 103(a) as being unpatentable over Doyle (3,860,348) in view of Wojcik et al (4,893,956).

Although the Doyle reference does not disclose that the plurality of applicator devices are joined together by a frangible portion, attention is directed to the Wojcik et al reference which shows a plurality of applicator packages are joined together.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to join the Doyle applicator packages together by a frangible portion in view of the teaching of the Wojcik reference so that the packages can be easily stored and torn off along the frangible portion for use.

6. Claims 2, 3, 144-164, 169-182, 184-186, 189-194, 203, 204, 206-212 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gray (4,594,835) in view of Hitchcock, Jr. et al. (4,519,795).

The Gray reference discloses a first portion 4; a second portion 1 movable with respect to the first portion 4, wherein the first portion 4 and the second portion 1 define a substantially closed reservoir when the device in a closed position; and an applicator

member 10, when the device in a closed position, the application member 10 is at least partially compressed inside the reservoir and, when the device is moved from the closed position to an open position, the application member 10 becomes substantially uncompressed.

Although the Gray reference does not disclose that the applicator member 10 is attached to the second portion 1, attention is directed to the Hitchcock, Jr. et al reference, which discloses another application device comprising an application member 14, attached to an upper (second) portion by bonding.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to attach the applicator member 10 to the second (upper) portion 1 of the Gray device in view of the teaching of the Hitchcock, Jr. et al reference for preventing soiling the hand of a person and facilitating holding the applicator during use.

7. Claims 43, 44, 115, 116, and 187 and 188 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gray (4,594,835) in view of Hitchcock, Jr. et al (4,519,795).

Although the Gray reference does not disclose that the plurality of applicator devices are joined together by a frangible portion, attention is directed to the Wojcik et al reference which shows a plurality of applicator packages are joined together.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to joined the Gray applicator packages together by a frangible portion in view of the teaching of the Hitchcock, Jr. et al reference so that the packages can be easily stored and torn off along the frangible portion for use.

**Conclusion**

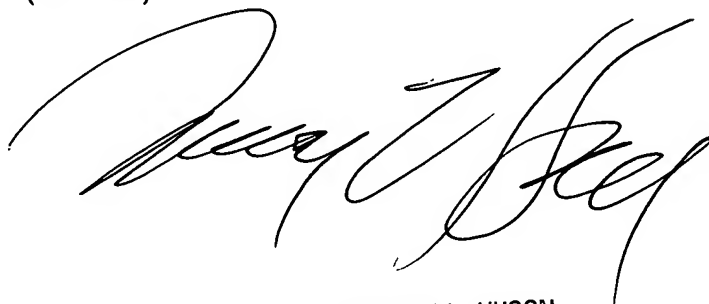
8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The Hausheer and Mason references show a plurality of applicator packages. The Spartz reference shows a cosmetic applicator having an applicator member being compressed in a reservoir.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Huyen Le whose telephone number is 703-306-5504. The examiner can normally be reached on Monday-Friday from 9:00 am to 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gregory Huson can be reached on 703-308-2580. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

HL  
February 19, 2004



GREGORY L. HUSON  
SUPERVISOR, PATENT EXAMINER  
TECHNICAL CENTER 3700